

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

ROBERT "BOB" BURNS - Chairman
BOYD DUNN
SANDRA D. KENNEDY
JUSTIN OLSON
LEA MÁRQUEZ PETERSON

In the matter of:

Luxury Management Group, LLC, an
Arizona limited liability company,MTE 2013 Trust, Michael Barry Eckerman,
and Tonya Eckerman, trustees,Michael Barry Eckerman, and Tonya
Eckerman, husband and wife,

Respondents.

DOCKET NO. S-21099A-20-0057

NOTICE OF OPPORTUNITY FOR HEARING
REGARDING PROPOSED ORDER TO CEASE
AND DESIST, ORDER FOR RESTITUTION,
ORDER FOR ADMINISTRATIVE PENALTIES,
AND ORDER FOR OTHER AFFIRMATIVE
ACTION

NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING**EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER**

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondents Luxury Management Group, LLC, MTE 2013 Trust, and Michael Barry Eckerman have engaged in acts, practices, and transactions that constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act").

The Division also alleges that MTE 2013 Trust and Michael Barry Eckerman are persons controlling Luxury Management Group, LLC within the meaning of A.R.S. § 44-1999(B), so that they are jointly and severally liable under A.R.S. § 44-1999(B) to the same extent as Luxury Management Group, LLC for its violations of the antifraud provisions of the Securities Act.

I.**JURISDICTION**

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

II.**RESPONDENTS**

2. Luxury Management Group, LLC ("Luxury") is a limited liability company organized under the laws of the state of Arizona on June 21, 2018. Since its organization, Luxury has been a member-managed company, and the sole member of Luxury has been MTE 2013 Trust.

3. Luxury's offices were located in Arizona from at least July 5, 2018, to at least July 31, 2019.

4. On information and belief, MTE 2013 Trust is a trust formed on or before March 30, 2017, under the laws of the state of Nevada. Michael Barry Eckerman ("Eckerman") and Tonya Eckerman have been the trustees of the MTE 2013 Trust since at least March 30, 2017.

5. Luxury has not been registered by the Commission as a securities salesman or dealer, and none of Luxury's securities have been registered by the Commission.

6. Since at least June 21, 2018, Michael Barry Eckerman has been a married man and a resident of the state of Arizona. Eckerman has not been registered by the Commission as a securities salesman or dealer.

7. Since at least June 21, 2018, Tonya Eckerman ("Respondent Spouse") has been the spouse of Respondent Eckerman. Respondent Spouse is joined in this action under A.R.S. § 44-2031(C).

8. At all relevant times, Eckerman was acting for his own benefit and for the benefit or in furtherance of his and Respondent Spouse's marital community.

III.**FACTS**

9. Luxury is a real estate rental management company. Luxury managed short-term luxury real estate rentals in Arizona.

1 10. Eckerman managed Luxury. Eckerman was a signer on Luxury's bank account
2 since at least October 27, 2018, and he had a debit card for Luxury's bank account since at least
3 November 21, 2018.

4 11. Luxury funded its business operations in part by selling securities. The securities
5 Luxury sold included debt investments ("Debt Investments") evidenced by instruments titled
6 "commercial paper" with accompanying "commercial paper loan agreements." The securities
7 Luxury sold also included investments of funds obtained using an investor's personal credit
8 ("Personal Credit Investments").

9 12. Luxury raised at least \$595,000 from the sale of Debt Investment securities to at
10 least three investors. Luxury and Eckerman solicited these investments. The Debt Investments
11 offered monthly interest payments at a rate of between 12–20% annually. Luxury sold the Debt
12 Investments from at least November 16, 2018, to at least December 13, 2018.

13 13. The Debt Investments were not actually commercial paper. Commercial paper is
14 limited to high-quality instruments that are not ordinarily purchased by the general public issued to
15 facilitate well recognized types of current operational business requirements and of a type eligible
16 for discounting by Federal Reserve banks.

17 14. The Debt Investments were not high-quality instruments. Each of the Debt
18 Investments was in default within approximately three months because of failures to make timely
19 interest payments. The high 12–20% rates of interest on the Debt Investments also reflect that they
20 were not high-quality; the average annual interest rate of 30-day commercial paper in 2018 as
21 calculated by the Federal Reserve was less than 2.3%.

22 15. Luxury offered the Debt Investments to the general public using a network of sales
23 agents who attempted to solicit investments in the Debt Investments from individuals in their
24 personal network.

25 16. Luxury raised at least \$205,000 from the sale of the Personal Credit Investment
26 securities to at least one investor from at least January 2, 2019, to at least March 7, 2019. Luxury

1 and Eckerman solicited these investments. Luxury and Eckerman offered a small immediate return
2 of approximately 2% of the Personal Credit Investment plus monthly returns for the use of the
3 investor's credit. The Personal Credit Investment funds were deposited to the same Luxury account
4 as the Debt Investment funds.

5 17. On December 12, 2016, the Commission issued a Temporary Order to Cease and
6 Desist and Notice of Opportunity for Hearing ("First Temporary Order"), in which the Commission
7 alleged that Eckerman and Premier Asset Management Group LLC ("PAMG"), a real estate
8 company that Eckerman managed and controlled, were selling securities in violation of the
9 Securities Act. The First Temporary Order ordered that Eckerman and PAMG cease and desist
10 from any violations of the Securities Act. The First Temporary Order is still in effect.

11 18. On December 29, 2017, the Commission issued a Temporary Order to Cease and
12 Desist and Notice of Opportunity for Hearing ("Second Temporary Order"), in which the
13 Commission alleged that Eckerman and Pacific Capital Enterprises LLC ("Pacific Capital"), a real
14 estate company that Eckerman managed and controlled, were violating antifraud provisions of the
15 Securities Act. The Second Temporary Order ordered that Eckerman and Pacific Capital cease and
16 desist from any violations of the Securities Act. The Second Temporary Order was in effect against
17 Eckerman and Pacific Capital until March 13, 2019, when the Commission permanently ordered
18 that they cease and desist from any violations of the Securities Act.

19 19. Luxury and Eckerman omitted to tell at least three Debt Investment investors and at
20 least one Personal Credit Investment investor that Eckerman was subject to the First Temporary
21 Order and the Second Temporary Order at the time of their investments.

22 20. PAMG sold at least 107 notes to investors raising over \$3,630,000 from
23 approximately April 2, 2015, to approximately April 3, 2017. PAMG subsequently defaulted on at
24 least 22 of those notes before November 16, 2018, by failing to make timely principal and/or
25 interest payments.

23. Two of the rental properties that Luxury managed were residences at 8812 North 65th Street, Paradise Valley, Arizona 85253 (“65th Street Residence”) and at 8624 North 64th Place, Paradise Valley, Arizona 85253 (“64th Place Residence”). The 65th Street Residence and 64th Place Residence were rented for short-term rentals through online rental services AirBnB and Vrbo.

25. On March 6, 2019, the Maricopa County Superior Court filed a stipulated judgment permanently enjoining short-term rentals of the 65th Street Residence and the 64th Place Residence.

IV.

(Offer or Sale of Unregistered Securities)

28. The securities referred to above were not registered pursuant to Articles 6 or 7 of the Securities Act.

29. This conduct violates A.R.S. § 44-1841.

V.

VIOLATION OF A.R.S. § 44-1842

(Transactions by Unregistered Dealers or Salesmen)

30. Luxury and Eckerman offered or sold securities within or from Arizona while not registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

31. This conduct violates A.R.S. § 44-1842.

VI.

VIOLETION OF A.R.S. § 44-1991

(Fraud in Connection with the Offer or Sale of Securities)

32. In connection with the offer or sale of securities within or from Arizona, Luxury and Eckerman directly or indirectly: (i) employed a device, scheme, or artifice to defraud; (ii) made untrue statements of material fact or omitted to state material facts that were necessary in order to make the statements made not misleading in light of the circumstances under which they were made; or (iii) engaged in transactions, practices, or courses of business that operated or would operate as a fraud or deceit upon offerees and investors. Luxury and Eckerman's conduct includes, but is not limited to, the following:

a) Luxury and Eckerman omitted to tell at least three Debt Investment investors and at least one Personal Credit Investment investor that Eckerman was subject to the First Temporary Order and the Second Temporary Order;

b) Luxury and Eckerman omitted to tell at least three Debt Investment investors and at least one Personal Credit Investment investor that real estate-related companies managed and controlled by Eckerman had previously failed to pay timely investment returns to investors; and

c) Luxury and Eckerman omitted to tell at least three Debt Investment investors and at least one Personal Credit Investment investor about the pending Injunction Litigation.

33. This conduct violates A.R.S. § 44-1991.

VII.**CONTROL PERSON LIABILITY PURSUANT TO A.R.S. § 44-1999**

34. Since June 21, 2018, Luxury has been a member-managed company and MTE 2013 Trust has been its sole member.

35. Since June 21, 2018, MTE 2013 Trust controlled Luxury within the meaning of A.R.S. § 44-1999. Therefore, MTE 2013 Trust is jointly and severally liable to the same extent as Luxury for its violations of A.R.S. § 44-1991 since June 21, 2018.

36. Since June 21, 2018, Eckerman has been a trustee of MTE 2013 Trust, the sole member of Luxury.

37. Since June 21, 2018, Eckerman controlled Luxury within the meaning of A.R.S. § 44-1999. Therefore, Eckerman is jointly and severally liable to the same extent as Luxury for its violations of A.R.S. § 44-1991 since June 21, 2018.

XIII.**REQUESTED RELIEF**

The Division requests that the Commission grant the following relief:

1. Order Respondents Luxury, MTE 2013 Trust, and Eckerman to permanently cease and desist from violating the Securities Act, pursuant to A.R.S. § 44-2032;

2. Order Respondents Luxury, MTE 2013 Trust, and Eckerman to take affirmative action to correct the conditions resulting from Respondents' acts, practices, or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032 ;

3. Order Respondents Luxury, MTE 2013 Trust, and Eckerman to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

4. Order that Respondent Eckerman and Respondent Spouse be subject to any order of restitution, rescission, administrative penalties, or other appropriate affirmative action.

5. Order any other relief that the Commission deems appropriate.

XIV.

HEARING OPPORTUNITY

Each respondent, including Respondent Spouse, may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-306. **If a Respondent or Respondent Spouse requests a hearing, the requesting respondent must also answer this Notice.** A request for hearing must be in writing and received by the Commission within 10 business days after service of this Notice of Opportunity for Hearing. The requesting respondent must deliver or mail the request to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at <http://www.azcc.gov/divisions/hearings/docket.asp>.

If a request for a hearing is timely made, the Commission shall schedule the hearing to begin 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. If a request for a hearing is not timely made the Commission may, without a hearing, enter an order granting the relief requested by the Division in this Notice of Opportunity for Hearing.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Carolyn D. Buck, ADA Coordinator, voice phone number (602) 542-3931, e-mail cdbuck@azcc.gov. Requests should be made as early as possible to allow time to arrange the accommodation. Additional information about the administrative action procedure may be found at <http://www.azcc.gov/divisions/securities/enforcement/AdministrativeProcedure.asp>

XV.

ANSWER REQUIREMENT

Pursuant to A.A.C. R14-4-305, if a Respondent or Respondent Spouse requests a hearing, the requesting respondent must deliver or mail an Answer to this Notice of Opportunity for Hearing to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona

1 85007, within 30 calendar days after the date of service of this Notice. Filing instructions may be
2 obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site
3 at <http://www.azcc.gov/divisions/hearings/docket.asp>.

4 Additionally, the answering respondent must serve the Answer upon the Division. Pursuant
5 to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a
6 copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007,
7 addressed to Paul Kitchin.

8 The Answer shall contain an admission or denial of each allegation in this Notice and the
9 original signature of the answering respondent or respondent's attorney. A statement of a lack of
10 sufficient knowledge or information shall be considered a denial of an allegation. An allegation not
11 denied shall be considered admitted.

12 When the answering respondent intends in good faith to deny only a part or a qualification
13 of an allegation, the respondent shall specify that part or qualification of the allegation and shall
14 admit the remainder. Respondent waives any affirmative defense not raised in the Answer.

15 The officer presiding over the hearing may grant relief from the requirement to file an
16 Answer for good cause shown.

17 Dated this 20th day of March, 2020.

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Mark Dinell
Director of Securities